

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PARAVUE CORPORATION,

No. 3:14-cv-03887-CRB

Appellant,

**ORDER GRANTING APPELLEE'S
MOTION TO STRIKE PORTIONS OF
THE RECORD ON APPEAL**

v.

IN RE: HELLER EHRMAN LLP,

Appellee.


Now before this Court is appellee Heller Ehrman LLP's motion to strike portions of the record on appeal. Mtn. Strike (Dkt. 10). Appellee seeks an order striking from the record on appeal the motion for reconsideration and supporting documents filed by appellant Paravue Corporation in the bankruptcy court after the bankruptcy court granted Heller Ehrman's motions for summary judgment. *Id.* at 2. The bankruptcy court entered judgment in Heller Ehrman's favor on July 21, 2014. *Id.* at 2-3. Paravue filed a motion for reconsideration on August 21, 2014, and a notice of appeal challenging the same orders the following day. *Id.* at 3. Heller filed an objection to Paravue's motion for reconsideration, arguing among other things that the bankruptcy court lacked jurisdiction to grant reconsideration since Paravue appealed from the challenged orders the day after filing its motion. *Id.* at 3. Paravue response conceded that its notice of appeal divested the bankruptcy court of jurisdiction to grant reconsideration and requested that the court deny the

1 requested relief on that ground, which the bankruptcy court did on October 24, 2014. Id. In
2 the interim, on September 5, 2014, Paravue filed its designation of the record on appeal and
3 included therein the documents it filed in support of its motion for reconsideration. Id.

4 This Court sits as an appeals court in its review of the bankruptcy court's final
5 judgments, orders, and decrees. 28 U.S.C. § 158(a). The bankruptcy court denied Paravue's
6 motion for reconsideration for lack of jurisdiction, not on the merits, and expressed "no
7 opinion" as to whether the documents submitted with the motion for reconsideration "should
8 be considered by any other court on appeal." See Order Denying Mot. Reconsid. Ex. D. at 1.
9 Here, Paravue appeals the bankruptcy court's grant of summary judgment in favor of Heller
10 Ehrman, an order that the bankruptcy court entered without considering the documents later
11 submitted with the motion for reconsideration. See In re Nat'l Century Fin. Enter., Inc., 334
12 B.R. 907 (S.D. Ohio 2005); see also Kirshner v. Uniden Corp. of Am., 842 F.2d 1074, 1077-
13 78 (9th Cir. 1988). Accordingly, the challenged documents are STRICKEN from the record
14 on appeal and appellee's motion to strike is thereby GRANTED.

15 **IT IS SO ORDERED.**

16
17 Dated: December 2, 2014



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE